

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION**

ROBERT R. PACQUETTE,)	
)	Case No. 4:06CV00060
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
NESTLÉ USA, INC.,)	
)	
Defendant.)	By: Jackson L. Kiser
)	Senior United States District Judge

Before me now is Defendant Nestlé USA, Inc.’s (“Nestlé”) Motion to Dismiss. The Plaintiff in this action is Robert R. Pacquette (“Pacquette”). The parties have briefed the issues and oral argument was held before this Court on April 12, 2007. The motions are therefore ripe for decision. For the reasons stated in the accompanying Memorandum Opinion, Defendant’s Motion to Dismiss is **DENIED** as to the causes of action for Insulting Words and ERISA Discrimination and **GRANTED** as to the causes of action for Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress, Wrongful Discharge, Breach of Contract, Defamation, and Breach of ERISA Fiduciary Duty.

The Clerk is directed to send a certified copy of this Memorandum Opinion and the attached Order to all counsel of record.

Entered this 7th day of May, 2007.

s/Jackson L. Kiser
Senior United States District Judge